

REMARKS***Information Disclosure Statement***

Applicants appreciate consideration of their June 3, 2009 information disclosure.

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September 15 Interview - Applicants' Summary

The subject office action stated that a search of the elected species did not result in a prior art rejection. Claims 66-150 were restricted and withdrawn, and the only rejected claim was claim 1. On September 15, 2009, examiner conducted a telephone interview with applicant's counsel, the undersigned Jay R. Yablon, as well as inventor George Doherty. The purpose of this interview was to identify a suitable amendment to rejected independent apparatus claim 1 from which examiner could expand his search. Examiner and counsel agreed, as recorded in examiner's interview summary, that if prior art is found that anticipates or renders obvious the instant Claim 1, then Examiner will contact Applicant with the goal of allowance via Examiner's amendments. Examiner also suggested that independent method claim 66 concurrently be amended to include parallel limitations to amended independent apparatus claim 1, so that if the amended claims successfully avoid the prior art, then the non-elected method claims will be eligible for rejoinder.

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Restriction and Traversal

In sum, applicant in the present action overcame the original restriction based on the example of Lidoderm, shifting
5 the burden back to the examiner to support a viable alternative. Examiner in the present action, proposed US 7,273,887 to Wepfer as said alternative.

With this reply, applicant has concurrently amended withdrawn independent method claim 66 to be completely parallel
10 in scope to amended independent apparatus claim 1, as suggested by examiner in the September 15, 2009 interview. This amended claim 66 should traverse the restriction, and so applicants respectfully request that the restriction be withdrawn and non-elected claims 66-150 rejoined in this application.

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Claim Rejection -35 USC § 102

In the September 15 interview, examiner and counsel agreed that amended claim 1 presented here (with minor wording changes following careful review) provides a suitable basis upon which
20 examiner can expand his search in the hope of arriving at an allowance. Applicant of course is hopeful that amended claim 1 will now be allowed following examiner's expanded search, and looks forward to receiving a notice of allowance in the near future.

Reminder Regarding Telephone Interview in the Event of a Prior

Art Bar

If, however, the expanded search runs into prior art which bars allowance, then as agreed between examiner and counsel in
5 the September 15, 2009 interview, and as stated in examiner's interview summary, examiner will contact Applicant with the goal of allowance via Examiner's amendments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jay R. Yablon". The signature is stylized with a large, looped initial "J" and a cursive "Yablon".

Jay R. Yablon, Registration # 30604
910 Northumberland Drive
Schenectady, New York 12309-2814
Telephone / Fax: (518)377-6737
Email: jyablon@nycap.rr.com